

No. B-150075
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL
OF WILLIAMS MOVING & STORAGE (B.C.) LTD.**

NOTICE OF APPLICATION

Name of applicant: Williams Moving & Storage (B.C.) Ltd. (the "Company")

To: Business Development Bank of Canada

Dundarave Mortgage Investment Corporation

BCMP Mortgage Investment Corporation by its administrative agent Pen-Cor Mortgage
and Investment Advisors Ltd. and Pencor Capital Corp.

Trailer Wizards Ltd.

C. Keay Investments Ltd. dba Ocean Trailer

Inland Kenworth

Central Valley Truck Services Ltd.

Kal Tire A Corporate Partnership

Premium Truck & Trailer Inc.

Glover Trucks International

Unifor and Unifor Local 14

The Superintendent of Financial Institutions Canada

The Official Receiver

TAKE NOTICE that an application will be made by the Company to the presiding judge or master at the courthouse at 800 Smithe Street, Vancouver, British Columbia on Tuesday, March 10, 2015 at 9:45 a.m. for the orders set out in Part 1 below.

Part 1 ORDERS SOUGHT

1. An order abridging the time for service of this Notice of Application and the materials herein such that the application is properly returnable on Monday, March 10, 2015; and
2. An order:
 - (a) approving the auction and liquidation services agreement (the “**Liquidation Agreement**”) between the Company and Maynards Industries Ltd. (“**Maynards**”) dated March 6, 2015, and authorizing the sale of the Company’s assets contemplated thereby (the “**Sales Process**”);
 - (b) authorizing the Company to enter into the Liquidation Agreement and to take any and all actions as may be necessary or desirable to implement the Liquidation Agreement and the Sales Process; and
 - (c) vesting in those purchasers who purchase assets in course of the Sales Process the Company’s right, title and interest in and to the purchased assets free and clear of all claims and encumbrances,

both substantially in the form attached hereto as Schedule “A”.

Part 2 FACTUAL BASIS

1. On January 21, 2015, the Company filed a Notice of Intention to Make a Proposal (the “**NOI**”) pursuant to section 50.4(9) of the *Bankruptcy and Insolvency Act* (the “**BIA**”). Deloitte Restructuring Inc. was appointed as trustee under the NOI (in such capacity, the “**Trustee**”).
2. By an Order dated February 19, 2015 the time for filing the Company’s proposal was extended to 11:59 p.m. on Monday, April 6, 2015.
3. As part of its process to realize on the value of its assets, the Company issued a request for proposals (the “**RFP**”) on February 3, 2015 seeking offers to sell and/or purchase the Company’s rolling stock equipment (the “**RS Equipment**”). The RFP was issued to five parties which the Company considered to have the relevant experience and capability to deal with the sale of the RS Equipment. RFP responses were due by February 12, 2015.
4. The Company received and considered four proposals in response to the RFP, all from arm’s length parties, three of whom are well-known, experienced auctioneers. The proposals included offers for the outright purchase of the RS Equipment, net minimum guarantee auctions and straight commission auctions. The Company completed a comparison of the proposals on a ‘like for like’ basis to determine which proposal

provided the highest realization for the RS Equipment, taking into account the risks associated with each proposed method of sale.

5. On the basis of its review and comparison, the Company is of the view that Maynards' proposal for a net minimum guarantee sale of the RS Equipment is the superior proposal and in the best interests of the Company and its creditors. While a straight commission sale may have potentially achieved a higher realization to the Company, given the additional risk associated with the uncertainty of the gross sale proceeds achievable, the Company did not consider the possible higher realization to be worth the increased risk.
6. On March 6, 2015, the Company and Maynards entered into the Liquidation Agreement, pursuant to which the RS Equipment will be sold by Maynards by way of auctions (both online and at a number of the Company's locations) and by private sale, at Maynards' discretion.
7. In summary, the Liquidation Agreement provides for a net minimum guaranteed amount to the Company (the "NMG"), together with the possibility of sharing the proceeds of sale beyond a set threshold with Maynards in the ratio of 90:10 with 90% of the proceeds going to the Company. In addition, Maynards is to remove and scrap all assets not sold through the Sales Process at its sole risk, cost and expense. The Liquidation Agreement is conditional on Court approval of the same on or before March 9, 2015 or such later date as the parties may agree.
8. The Company believes that the Liquidation Agreement represents the best available recovery for the Company's stakeholders in respect of the RS Equipment. Accordingly, and with the support of the Trustee, the Company is seeking approval of the Liquidation Agreement.
9. The following entities are shown as secured parties in respect of registrations in the British Columbia and/or Alberta Personal Property Registries in relation to some or all of the RS Equipment:
 - (a) Business Development Bank of Canada;
 - (b) Dundarave Mortgage Investment Corporation;
 - (c) BCMP Mortgage Investment Corporation by its administrative agent Pen-Cor Mortgage and Investment Advisors Ltd. and Pencor Capital Corp.;
 - (d) Trailer Wizards Ltd.;
 - (e) C. Keay Investments Ltd. dba Ocean Trailer
 - (f) Inland Kenworth;
 - (g) Central Valley Truck Services Ltd.
 - (h) Kal Tire A Corporate Partnership;

- (i) Premium Truck & Trailer Inc.; and
- (j) Glover Trucks International,

(collectively, the “**Registered Parties**”). While the Company has not yet had the opportunity to review the validity of the underlying security interests of all of the Registered Parties, notice of this application will be given to each of the Registered Parties in the event that section 65.13(3) of the BIA, which requires that notice be given to “the secured creditors who are likely to be affected by the proposed sale or disposition”, applies. Given that the Company seeks an order that the proceeds shall stand in the place and stead of the RS Equipment, it may be that the potential Registered Parties are not affected by the proposed sale.

- 10. The Company requests the relief sought herein so as to facilitate the orderly sale of the Company’s assets for the purpose of being able to make a viable proposal to its creditors.

Part 3 LEGAL BASIS

- 1. The Company relies on section 65.13 of the BIA, the inherent jurisdiction of this Honourable Court and *Re Komtech Inc.*, 2011 ONSC 3230.
- 2. The Company submits that the process leading to the Liquidation Agreement was reasonable in the circumstances, given that involved the RFP and negotiations with arm’s length parties with the assistance of counsel. The Trustee was aware of the RFP process and assisted the Company in its analysis of the proposals received pursuant to the RFP, and supports the Company’s application.
- 3. The Company further submits that the sale of the RS Equipment pursuant to the Liquidation Agreement and the Sales Process will lead to a greater net return to the Company’s creditors than if individual secured creditors were permitted to carry out *ad hoc* sales of individual pieces of equipment.

Part 4 MATERIAL TO BE RELIED ON

- 1. 1st Affidavit of George James (Jim) Williams sworn February 16, 2015
- 2. 1st Affidavit of Mary O’Sullivan-Andersen, sworn March 6, 2015;
- 3. 2nd Report of Deloitte Restructuring Inc. dated March 6, 2015;
- 4. All pleadings had and taken herein, including the Order of Madam Justice Gropper dated February 19, 2015.
- 5. Such further and other materials as counsel may advise and the Court may permit.

The Company estimates that the application will take 15 minutes.

This matter is not within the jurisdiction of a master.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this Notice of Application, you must, within 5 business days after service of this Notice of Application or, if this application is brought under Rule 9-7, within 8 business days after service of this Notice of Application,

- (a) file an Application Response in Form 33,
- (b) file the original of every affidavit, and of every other document, that
 - (i) you intend to refer to at the hearing of this application, and
 - (ii) has not already been filed in the proceeding, and
- (c) service on the applicant 2 copies of the following, and on every other party of record one copy of the following:
 - (i) a copy of the filed Application Response;
 - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
 - (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Dated: 06-Mar-2015



Signature of Vicki Tickle
Lawyer for Applicant, Williams Moving & Storage (B.C.) Ltd.

To be completed by the court only:

Order made

in the terms requested in paragraphs of Part 1 of this Notice of Application

with the following variations and additional terms:

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Date:

.....

Signature of Judge Master

The Solicitors for Williams Moving & Storage (B.C.) Ltd. are Fasken Martineau DuMoulin LLP, whose office address and address for delivery is 2900 - 550 Burrard Street, Vancouver, BC V6C 0A3 Telephone: +1 604 631 3131 Facsimile: +1 604 631 3232. (Reference: Vicki Tickle/254284.00015)

APPENDIX

THIS APPLICATION INVOLVES THE FOLLOWING:

- discovery: comply with demand for documents
- discovery: production of additional documents
- other matters concerning document discovery
- extend oral discovery
- other matter concerning oral discovery
- amend pleadings
- add/change parties
- summary judgment
- summary trial
- service
- mediation
- adjournments
- proceedings at trial
- case plan orders: amend
- case plan orders: other
- experts

SCHEDULE "A"

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ORDER MADE AFTER APPLICATION

))
BEFORE)	THE HONOURABLE)
)	JUSTICE)
))
))
))

March 10, 2015

ON THE APPLICATION OF Williams Moving & Storage (B.C.) Ltd. (the "Company") coming on for hearing at Vancouver, British Columbia on Tuesday, March 10, 2015 and on hearing <@>, counsel for the Company, and those counsel listed in Schedule "A" hereto;


THIS COURT ORDERS that:

1. The time for service of the Notice of Application and materials referred to therein be and is hereby abridged and the Notice of Application is properly returnable today.
2. The sale of the Company's assets (the "RS Equipment") contemplated by the auction and liquidation services agreement dated March 6, 2015 between Maynards Industries Ltd. ("Maynards") and the Company (the "Liquidation Agreement"), a redacted copy of which is attached as Appendix C to the Second Report to the Court of Deloitte Restructuring Inc. dated March 6, 2015, is hereby authorized and approved. The execution of the Liquidation Agreement by the Company is hereby authorized and approved.
3. The Company is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the sale of the RS Equipment contemplated by Liquidation Agreement, and for the conveyance thereof to the purchasers (each, a "Purchaser") of the RS Equipment (collectively, the "Purchased Assets").

4. Upon payment by each Purchaser to Maynards of the full amount of the purchase price (including any applicable Online Sale Charges (as defined in the Liquidation Agreement)) for the RS Equipment purchased by such Purchaser (the “**Payment**”), all of the Company’s right, title and interest in and to the applicable Purchased Assets shall vest absolutely in the applicable Purchaser in fee simple, free and clear of and from any and all security interests (whether contractual, statutory or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing, all charges, security interests or claims evidenced by registrations pursuant to the Personal Property Security Act of British Columbia or any other personal property registry system (all of which are collectively referred to as the “**Encumbrances**”), and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the applicable Purchased Assets are hereby expunged and discharged as against the applicable Purchased Assets upon receipt of Payment by Maynards, and, following the completion of the sale of the applicable Purchased Assets, Maynards or their counsel may file financing change statements in the applicable Personal Property Registry(ies) to effect the discharge of any filings relating to such Purchased Assets.
5. For the purposes of determining the nature and priority of Claims, the proceeds received by the Company from the sale of any Purchased Assets in accordance with the Liquidation Agreement (the “**Net Equipment Sale Proceeds**”) shall stand in the place and stead of such Purchased Assets, and all Claims shall attach to the Net Equipment Sale Proceeds with the same priority as they had with respect to the applicable Purchased Assets immediately prior to the sale, as if such Purchased Assets had not been sold and remained in the possession or control of the person having had possession or control immediately prior to the sale.
6. For clarity, nothing in this Order shall preclude Maynards from retaining all amounts of the Payment(s) to which Maynards is entitled pursuant to the Liquidation Agreement, and any funds it retains shall belong to Maynards absolutely free and clear of all Claims.
7. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada to give effect to this Order and to assist the Company and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Company as may be necessary or desirable to give effect to this Order and to assist the Company and its agents in carrying out the terms of this Order.

8. Endorsement by this Order by counsel appearing on this application, other than counsel for the Company, is hereby dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

Signature of 
Lawyer for Williams Moving & Storage (B.C.)
Ltd.

BY THE COURT

REGISTRAR

SCHEDULE "A"

List of Counsel

Name of Counsel	Party
R. Hoops Harrison	Maynards Industries Ltd.

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